

February 26, 1999

Re: Amendment to Standard Offer Rule (Chapter 301)

Dear Interested Persons:

Attached is a copy of the Commission's standard offer rule (Chapter 301) with amendments that the Commission plans to propose for legislative adoption.

The Commission provisionally adopted Chapter 301 on February 11, 1998; and the rule was finally adopted on April 22, 1998 after legislative review. Because of information and experience gained over the last several months, the Commission believes it is important to make several changes to the rule before beginning the bid processes to seek standard offer service providers. The proposed changes would do the following:

- Establish standard offer classes and rate design
- Set the term of initial standard offer period to be one year
- Establish the treatment of uncollectible accounts
- Provide a contingency plan in the event of a lack of sufficient bids
- Make Chapter 301 consistent with other Commission rules governing utility/provider interactions

The Commission has formally sought comment from interested persons on many issues related to these areas in other proceedings: *Public Utilities Commission, Investigation of Standard Offer Rate Design*, Docket No. 98-781, and *Public Utilities Commission, Inquiry Into the Information Needs of Standard Offer Providers*, Docket No. 98-537. The Commission has also received comments and reached decisions on related issues contained in Chapters 305 and 322 of the Commission's Rules. In addition, the Commission staff has received input informally from interested persons on some of these matters.

Because these changes must be made and approved by the Legislature prior to mid-1999, it is not feasible to conduct a major substantive rulemaking to incorporate

amendments to the standard offer rule. Due to these time constraints and the importance of the standard offer to the success of the State's restructuring effort, the Commission has decided to take the unusual step of asking the Legislature to approve amendments to the standard offer rule as part of its major substantive rulemaking review of minor changes to Chapter 301 made to be consistent with legislative amendments to the standard offer statute made last session. See *Public Utilities Commission Rulemaking: Standard Offer Service (Chapter 301)*, Docket No. 98-576.

We provide a description of the amendments below. Please feel free to contact me to discuss any of these amendments. We anticipate providing the amendments to the Legislature on March 8, 1999.

Standard Offer Classes and Rate Design

The existing rule requires the Commission to establish standard offer rate design through an administrative process. This process would seek to identify the relative costs of providing generation service to individual customer classes; those costs would, in effect, establish the rate design for standard offer service. In the context of CMP's ongoing rate proceeding, Docket No. 97-580, it was suggested that it would be preferable to allow the market to establish relative class rates through the bid process. The Commission sought comment on this issue in Docket No. 98-781 and all commenters agreed that establishing class rates through the bid process would be superior to an administrative process.

Upon consideration, the Commission agrees that a market approach should be adopted. Bidders would compete to provide standard offer service on a class-by-class basis, allowing them to more closely align their expected revenue with expected costs. This will reduce the bidders' risk and should result in lower bid prices. The approach should also minimize the possibility of standard offer prices being artificially too high or too low for particular classes, a scenario that could impede the development of a competitive market in Maine.

The proposed amendments implement the market approach by establishing three standard offer rate classes: residential and small non-residential, medium non-residential, and large non-residential.¹ The Commission proposes these three classes based on the similarity of usage patterns within each and for consistency with the profile groups under Chapter 321 that will form the basis of providers' costs to supply electricity to customers. These groupings should allow suppliers to better match their bids to expected costs within each class, while also not unduly complicating the bid process or creating classes that might be too small to attract reasonable bids.

The amended rule would require bidders to compete separately for each class. For the residential and small non-residential class, the structure of bid prices would be

¹Because of their customer base and small size, consumer-owned utilities may opt to have one standard offer class.

limited to a per-kWh charge; in the other classes bidders could propose different structures.

Duration of Standard Offer Bids

Chapter 301 currently establishes a 2-year term for standard offer bids. In the Docket No. 98-781 Investigation, the Commission asked for comments on whether it would be likely that standard offer bids would be lower if the providers' commitment was reduced to one year. The Commission sought comment on this issue in light of the current state of the generation markets in New England. The wholesale, as well as retail, markets in New England are still in transition, making it difficult to predict how the markets will function in the future. This uncertainty creates risk for standard offer bidders. This risk increases with the length of the provider's commitments. Bidders are likely to seek compensation for this risk through higher bid prices.

There was general agreement among commenters that the standard offer term should be reduced to a year, at least for the initial period. There appears to be a consensus that, by reducing the duration, there will be less risk for standard offer providers and, thus, lower standard offer bids. The Commission agrees with this viewpoint and has shortened the bid period to one year as part of its proposed amendments to Chapter 301.

Treatment of Uncollectibles

In the Docket No. 98-537 Inquiry, the Commission sought comment on the degree to which standard offer providers should be subject to the risk of uncollectibles. Because standard offer providers have no direct relationship with customers and must continue to serve pursuant to the Commission's disconnection rules, the Commission questioned whether it would be appropriate to relieve standard offer providers from the uncollectible risk. Such an approach may attract more bidders and lower the prices paid by standard offer customers.

Many commenters agreed that standard offer providers should not bear the risk of uncollectibles because they would not be in a position to impact the level of expense; the utilities have the collection obligation for standard offer customers and must act pursuant to the Commission rules on delinquent accounts and disconnection for non-payment. Commenters were also in general agreement that standard offer customers should pay standard offer prices that reflect the costs of uncollectibles. To do otherwise, would artificially depress the price of standard offer service, hindering the development of a competitive market in Maine. To avoid this outcome, utilities suggested that a surcharge representing the cost of uncollectibles be included as part of the standard offer rate; utilities would pay the standard offer provider in full and be reimbursed through the surcharge.

The Commission has included a variant of the utilities' surcharge proposal as part of the amended rule. Under this approach, the Commission pre-establishes the share of uncollectible accounts that will be borne by standard offer providers. This share will reflect the uncollectible percentage for the applicable standard offer class based on historic data. The standard offer uncollectible share will be identified as part of the information provided to bidders in the bid package. Because potential providers will know their uncollectible risk before they submit bids, they may adjust their bids accordingly. This will allow providers to eliminate the uncollectible risk, while also ensuring that standard offer prices reflect the associated costs. Utilities will be allowed appropriate cost recovery with respect to standard offer uncollectibles.

Contingency for Lack of Sufficient Bids

The amended rule contains a provision that provides the Commission with flexibility to address unforeseen circumstances. Because the New England generation markets are immature and market rules are developing, it is difficult to predict how the market will respond to requests for standard offer bids. It is possible that the Commission may receive no bids for some standard offer classes. It is also conceivable that bid prices will be so high that it would be preferable to reject all bids and require utilities to provide standard offer service from the regional spot market or through contracts with suppliers until adequate bids can be obtained.

As a precaution, the Commission proposes adding a provision that would allow it to reject bids and order utilities to provide the service on a temporary basis. This provision is similar to one already in the rule that allows utilities to provide standard offer service on a temporary basis in the event of a default by an existing standard offer provider. We note that a statutory amendment will be necessary to allow utilities to provide standard offer service in the event the Commission determines bids to be insufficient.

Consistency with Subsequent Rules on Utility/Provider Interactions

As mentioned above, the standard offer rule was among the first restructuring rules promulgated by the Commission. Since that time, the Commission has promulgated other rules implementing various aspects of restructuring. One such rule is Chapter 322 which governs the interactions between utilities and competitive providers related to metering, billing, collections and enrollment. Many of these interactions are also contained in Chapter 301. The Commission has included changes in the amended rule, such as clarification of costing methods and enrollment procedures, to make Chapter 301 consistent with Chapter 322, as well as with other rules. Consistency in this regard should simplify Maine's market rules and promote fair competition by applying similar rules to standard offer and competitive service.

As stated above, we realize that presenting amendments to a rule in this manner is unprecedented and we do so only because of the shortness of time and importance

of the standard offer rule to electric industry restructuring. Please do not hesitate to contact me at the Commission to discuss this matter.

Sincerely,

Gilbert W. Brewer
Legislative Counsel